



Legislation Details (With Text)

File #: O-626-23 **Version:** 3 **Name:**
Type: Ordinance **Status:** Approved
File created: 11/8/2023 **In control:** Law Department
On agenda: 11/21/2023 **Final action:** 11/21/2023
Title: Amending Toledo Municipal Code Section 187.42 to allow use of two-tiered procurement process in certain additional limited circumstances; and declaring an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Redline, 2. Video: Agenda Review 11/14/2023, 3. Video: City Council 11/21/2023

Date	Ver.	Action By	Action	Result
11/21/2023	3	City Council	Suspension	Pass
11/21/2023	3	City Council	Passage	Pass
11/21/2023	3	City Council	Passage	Pass

Amending TMC §187.42

Law

E. Granata (x-1034)

Revised

Amending Toledo Municipal Code Section 187.42 to allow use of two-tiered procurement process in certain additional limited circumstances; and declaring an emergency.

SUMMARY & BACKGROUND:

The Toledo Municipal Code Section 187.42 has allowed for the use of a two-tiered procurement process since 2017. This Ordinance would amend this Section to add the use of two-tiered, prequalification process in additional limited circumstances, specifically, when multiple projects of a similar nature need to be completed in a relatively short timeframe. This amended language would allow for an expedited construction bid process after pre-qualification to provide the improvements to get underway and completed more quickly and with improved consistency. The use of this new provision would require project labor agreements on all projects within the bid group.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the existing Toledo Municipal Code Section 187.42, which reads as follows:

187.42 Two-tiered selection.

The following two-tiered selection process may be undertaken to competitively award a contract where a public improvement project has been fairly estimated to cost in excess of ten million dollars or where the completion of a public improvement project is made time-sensitive by court order or the order of an administrative agency with jurisdiction.

(a) Request for qualifications/prequalification. The Commissioner of Purchasing together with the Director of the Department undertaking the public improvement project shall prepare a request for qualifications that shall be advertised for at least two consecutive weeks. The request for qualifications shall describe the project and make clear that the bidding is being conducted in accordance with the two-tiered process set forth herein. The request for qualifications will ask that interested bidders supply at least the following information:

1. A brief written description of the bidder's planned approach to the project;
2. The expertise, size and composition of the team the bidder plans to use to undertake the project;
3. A list of comparable projects, if any, undertaken by the bidder and/or projected team members;
4. A brief description of the bidder's current workload;
5. At least three references of the bidder;
6. A verifiable statement confirming the bidder's capacity and financial wherewithal to undertake the project;
7. A demonstration of the bidder's adherence to substantial completion dates on infrastructure projects of similar size and function to the subject project;
8. The bidder's OSHA citation/rate history for each of the past three years; and
9. A description of any litigation, administrative orders or claims in the past five years naming the bidder that involve issues with bidder's performance, delay, safety violations, labor and employment laws or standards, wage and hour laws, prevailing wage, or taxation, and a description of the current status or outcome of those matters.

Each of the above-stated categories or criterion, or other such criteria as may be requested by the City in the advertisement shall have been assigned a scoring range between zero (0) to fifteen (15) from which the evaluating division can choose in order to appropriately reflect their relative importance. For example, a criterion not applicable to this particular project would be worth zero (0) points whereas a highly important criterion could be assigned fifteen (15) points. The minimum weighted score necessary to receive an invitation to bid on the project will be included with the advertisement.

(b) Evaluation of responses to request for qualifications/ prequalification.

After the requests for qualifications are received and opened, all timely responses will be forwarded to the Department or Division responsible for letting the contract. The Department or Division will then promptly convene a panel of at least three persons familiar with the project to evaluate all responses. All responses, as determined by weighted score, that meet or exceed the minimum score will be invited to issue a bid on the project via the contact information contained in the response.

(c) Bid process. Persons or entities invited to bid on a project will be provided with a date and time at least three weeks from the date the invitations were announced to provide a bid for the project. The time and date will be the same for all invited bidders and will serve as the opening date. After opening, the bids will be evaluated and awarded in the same manner as non-two-tiered bids as set forth in this Chapter.

is repealed.

SECTION 2. That a new Toledo Municipal Code Section 187.42 is enacted to read as follows:

187.42 Two-tiered Selection.

(a) As an alternate procurement process under this Chapter, the two-tiered selection process as defined in this Section may be undertaken to competitively award a contract where (i) a public improvement project has been fairly estimated to cost in excess of ten million dollars, or (ii) where the completion of a public improvement project is made time-sensitive by court order or the order of an administrative agency with jurisdiction, or (iii) where a group of multiple public improvements of the same type have an aggregate estimated cost of at least one million dollars and construction of the multiple public improvements shall be completed within eighteen months of the selection of the prequalified bidders under this Section.

(b) Request for qualifications/prequalification. The Commissioner of Purchasing together with the Director of the Department undertaking the public improvement project shall prepare a request for qualifications that shall be advertised for at least two consecutive weeks. The request for qualifications shall describe the project and make clear that the bidding is being conducted in accordance with the two-tiered process set forth herein. The request for qualifications will ask that interested bidders supply at least the following information:

1. A brief written description of the bidder's planned approach to the project;
2. The expertise, size and composition of the team the bidder plans to use to undertake the project;
3. A list of comparable projects, if any, undertaken by the bidder and/or projected team members;
4. A brief description of the bidder's current workload;
5. At least three references of the bidder;
6. A verifiable statement confirming the bidder's capacity and financial wherewithal to undertake the project;
7. A demonstration of the bidder's adherence to substantial completion dates on infrastructure projects of similar size and function to the subject project;
8. The bidder's OSHA citation/rate history for each of the past three years; and
9. A description of any litigation, administrative orders or claims in the past five years naming the bidder that involve issues with bidder's performance, delay, safety violations, labor and employment laws or standards, wage and hour laws, prevailing wage, or taxation, and a description of the current status or outcome of those matters.

Each of the above-stated categories or criterion, or other such criteria as may be requested by the City in the advertisement shall have been assigned a scoring range between zero (0) to fifteen (15) from which the evaluating division can choose in order to appropriately reflect their relative importance. For example, a criterion not applicable to this particular project would be worth zero (0) points whereas a highly important criterion could be assigned fifteen (15) points. The minimum weighted score necessary to receive an invitation to bid on the project will be included with the advertisement.

(c) Alternate Pre-Qualification Process. For public improvements as defined in (a)(ii) and (a)(iii) of this Section, the bid criteria in Section 187.12 may be used, together with such additional criteria as may be deemed relevant to the specific type of public improvement by the Department,

as the pre-qualification criteria. Evaluation of responses to the request for qualifications/prequalification shall be made as provided in paragraph (d) of this Section.

(d) Evaluation of responses to request for qualifications/ prequalification.

After the requests for qualifications are received and opened, all timely responses will be forwarded to the Department or Division responsible for letting the contract. The Department or Division will then promptly convene a panel of at least three persons familiar with the project to evaluate all responses. All responses, as determined by weighted score, that meet or exceed the minimum score will be invited to bid on the project via the contact information contained in the response.

(e) Construction Bid process

1. For a public improvement that has been fairly estimated to cost in excess of ten million dollars as defined in subsection (a)(i), the prequalified bidders invited to bid on the project shall be provided with the bid specifications at a date and time at least three weeks from the date the invitations were announced to provide a bid for the project. The time and date will be the same for all invited bidders and will serve as the opening date. After opening, the bids will be evaluated and awarded in the same manner as non-two-tiered bids as set forth in this Chapter.

2. For eligible public improvements as defined in Subsection (a)(ii) and (a)(iii), the bid process may be expedited with the time for submission of construction bid responses after release of the bid specifications limited to not less than 4 business days. However, bids shall be due on the same date and time. Bid bonds may be waived by decision of the Purchasing Commissioner, however, surety bonds will be required for each construction contract award.

(f) Provisions of Chapter Applicable. The provisions of the Chapter related to requirements to pay living wage, prevailing wage and/or enter into project labor agreements shall be applicable to all awards under this Section. However, for projects defined in subsection (a)(iii), a project labor agreement shall be required for all pre-qualified bidders and may be required in advance of the letting of construction bids for the individual public improvements. Other provisions of this Chapter, including those related to bond requirements, shall apply to awards made pursuant to this Section, except that in the case of a conflict with this Section, the provisions of this Section shall govern.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall take effect and be in full force from and after its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this ordinance must be immediately effective in order to utilize two-tiered selection process to obtain the best result for taxpayers for upcoming public improvement contracts.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

_____.

Attest: _____
Clerk of Council